

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA Case No. DA 10-0170

JOSEPH WILLIAM DOYLE and)
VIRGINIA, CITY BUILDING)
CORPORATION, a Montana) APPELLANT'S UNOPPOSED
Corporation,) MOTION FOR 30 DAY
Plaintiffs/Appellants,) EXTENSION OF TIME TO) FILE FIRST BRIEF)
ν.)
MICHAEL V. B. CLARK, RALPH HAMLER, individually and as agent of Madison County, and MADISON COUNTY, a subdivision of the State of Montana,	FILED AUG 2 5 2010
Defendants/Appellees.	Ed Smith blerk of the supreme sourt state of montana

Madison County District Court, Cause No. DV-29-06-62 Honorable Loren Tucker Presiding

COMES NOW the Appellants Doyle and Virginia City Building Corp. and pursuant to Rule 26, M.R.App.P. moves the Court for a 30 day extension of time to file Appellant's first brief. Opposing attorneys Rick Larson and Tom Scott do not oppose this motion.

This is the first such motion that the Appellants have made. Appellants' initial brief is due Monday, August 23, 2010.

Appellant's counsel was due to be out of the state from early Friday morning (8/20/10) to Tuesday evening (8/24/10). Because of this counsel dictated this motion on Thursday (8/19/10) with instructions to his secretary to file it Friday (8/20/10).

However, due to a miscommunication between counsel and his secretary, this motion is being filed today. As soon as counsel became aware of this oversight (this morning, 8/25/10), he advised the Clerk's office.

The reasons for this extension is that Appellants' counsel had a lengthy brief due in the Ninth Circuit on July 29, 2010 and has also had various other briefs due in State and Federal Court which required counsel's attention. Also, counsel did not receive the notice of filing of record until approximately two weeks ago. It was sent by email to a defunct email address. It was not until two weeks ago that counsel called the Montana Supreme Court clerk's office to determine why they had not sent said notice of filing. The clerk's office then sent a hard copy of the notice of filing to counsel's mailing address in Bozeman.

For these reasons, Appellant moves the court for a 30 day extension of time to file first brief.

DATED:

August 25, 2010.

Terry F. Schaplow

Attorney for Plaintiffs/Appellants

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CERTIFICATE OF SERVICE

I hereby certify that on August 25, 2010, a copy of the foregoing was served upon the following by email and U.S. mail:

Richard Larson Harlen, Chronister, Parish & Larson, P.C. P.O. Box 1152 Helena, MT 59624-1152

Thomas R. Scott Attorney at Law P.O. Box 482 Dillon, MT 59725

By: ______
Terry F. Schaplow

Attorney for Appellants